



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 201124-0317; RTID 0648-XB306]

Atlantic Highly Migratory Species; Commercial Aggregated Large Coastal Sharks, Hammerhead Sharks, and Blacktip Sharks in the Gulf of Mexico Region; Retention Limit Adjustment

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS is adjusting the commercial retention limit for directed shark limited access permit holders from 45 to 55 large coastal sharks (LCS) other than sandbar sharks per vessel per trip in the Gulf of Mexico region. In the eastern Gulf of Mexico sub-region, this applies to any shark in the aggregated LCS, hammerhead, or blacktip management groups. In the western Gulf of Mexico sub-region, because aggregated LCS and hammerhead management groups are closed, this increase applies only to the blacktip management group. The retention limit will remain at 55 LCS other than sandbar sharks through the remainder of 2021, or until NMFS announces via a notification in the **Federal Register** another adjustment to the retention limit or a fishery closure. This retention limit adjustment affects anyone with a directed shark limited access permit fishing for LCS in the Gulf of Mexico region.

DATES: This retention limit adjustment is effective on [*insert date of filing for public inspection at the Office of the Federal Register*], through December 31, 2021, or until NMFS announces via a notification in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

FOR FURTHER INFORMATION CONTACT: Lauren Latchford at 301-427-8503;

lauren.latchford@noaa.gov.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. The retention limits and inseason adjustment criteria for sharks are described in § 635.24(a). The commercial shark quotas, including the regional and sub-regional definitions, are described in section § 635.27(b).

The Atlantic shark fishery has separate regional (Gulf of Mexico and Atlantic) quotas for all management groups except those for blue shark, porbeagle shark, pelagic sharks (other than porbeagle or blue sharks), and the shark research fishery. The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N. lat., proceeding due east. Any water and land to the south of that boundary is considered, for the purposes of setting and monitoring quotas, to be within the Gulf of Mexico region. This inseason action affects the aggregated LCS, hammerhead, and blacktip shark management groups in the Gulf of Mexico region.

Under § 635.24(a)(8), NMFS may adjust the commercial retention limits in the shark fishery during the fishing season. Before making any adjustment, NMFS must consider specified regulatory criteria (see § 635.24(a)(8)(i) through (vi)). After considering these criteria as discussed below, NMFS has concluded that increasing the retention limit in the Gulf of Mexico region will allow use of available quotas for those groups. Therefore, NMFS is increasing retention limits for directed shark limited access permit holders from 45 to 55 LCS other than sandbar sharks per vessel per trip in the Gulf of Mexico region. In the eastern Gulf of Mexico sub-region, this applies to any

shark in the aggregated LCS, hammerhead, or blacktip management groups. In the western Gulf of Mexico sub-region, because aggregated LCS and hammerhead management groups are closed, this increase only applies to the blacktip management group.

NMFS considered the inseason retention limit adjustment criteria listed at § 635.24(a)(8)(i) through (vi), which include:

- The amount of remaining shark quota in the relevant region.

Based on dealer reports through July 9, 2021, approximately 45 percent of the 85.5-metric tons (mt) dressed weight (dw) quota for aggregated LCS and approximately 42 percent of the 13.4-mt dw quota for the hammerhead shark management group have been harvested in the eastern Gulf of Mexico sub-region. In addition, based on dealer reports through July 9, 2021, approximately 23 percent of the 37.7-mt dw quota for the eastern Gulf of Mexico sub-region blacktip and approximately 61 percent of the 347.2-mt dw quota for the western Gulf of Mexico sub-region blacktip have been harvested. NMFS is increasing the retention limit to 55 LCS other than sandbar sharks per vessel per trip in the Gulf of Mexico region to facilitate the use of available quota.

- The catch rates in the relevant region.

Based on the current dealer reports, the average daily catch rates of landings in the eastern Gulf of Mexico sub-region for species in the aggregated LCS, hammerhead, and blacktip shark management groups, and the western Gulf of Mexico sub-region for the blacktip shark management group are low. Using 2021 catch rates through July 9, 2021, and comparing to catch rates from previous years, projections indicate that landings would not reach the quota before the end of 2021. A higher retention limit authorized under this action will provide increased fishing opportunities and facilitate use of available quota in the eastern and western Gulf of Mexico sub-regions.

- The estimated date of fishery closure based on projections.

If landings of either the aggregated LCS or hammerhead shark management groups reach 80 percent of their respective quotas, and those landings are projected to reach 100 percent of the quota by the end of the year, NMFS would, as required by the regulations at § 635.28(b)(3), close the eastern Gulf of Mexico sub-regional aggregated LCS and hammerhead shark management groups since they are “linked quotas.” The blacktip shark quotas in the eastern and western Gulf of Mexico sub-regions are not linked to the aggregated LCS or hammerhead shark sub-regional quotas. If blacktip shark landings reach, or are projected to reach a threshold of 80 percent of the available quota and are projected to reach 100 percent before the end of the fishing season, NMFS would close blacktip sharks, consistent with existing regulations. Current overall regional catch rates for aggregated LCS and, hammerhead shark management groups in the eastern Gulf of Mexico sub-region, and blacktip sharks in the eastern and western Gulf of Mexico sub-regions indicate all management groups would likely remain open for the remainder of the year. The higher retention limit should increase the likelihood of full utilization of the respective quotas, while also allowing these management groups to remain open for the remainder of the year.

- The effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments.

Increasing the retention limit for the aggregated LCS and hammerhead management groups in the Gulf of Mexico region from 45 to 55 LCS other than sandbar sharks per vessel per trip would continue to allow for fishing opportunities throughout the remainder of the year consistent with objectives established in the 2006 Consolidated HMS FMP and would manage these groups within previously-established, science-based quotas, consistent with requirements in relation to preventing overfishing and rebuilding overfished stocks.

- The variations in seasonal distribution, abundance, or migratory patterns of the

relevant shark species.

The directed shark fishery in the Gulf of Mexico region is composed of a mix of species, with a high abundance and distribution of aggregated LCS caught in conjunction with hammerhead and blacktip sharks. As a result, by increasing the harvest and landings on a per-trip basis, fishermen throughout the Gulf of Mexico region will likely experience equitable fishing opportunities and have a chance to fully utilize the available quotas.

- The effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota.

One of NMFS's goals for the 2021 commercial shark fishery is to facilitate fishing opportunities throughout the fishing season in the Gulf of Mexico region. While dealer reports indicate that, under current catch rates, the aggregated LCS and hammerhead shark management groups in the eastern Gulf of Mexico region and blacktip sharks in the eastern and western Gulf of Mexico sub-regions would remain open for the remainder of the year, the catch rates also indicate that the quotas would likely not be fully harvested under the current retention limit. If the harvest of these species is increased through an increased retention limit, NMFS estimates that the fishery would remain open for the remainder of the year and fishermen would have a reasonable opportunity to harvest a large portion of the quota.

On December 1, 2020 (85 FR 77007), NMFS announced in a final rule that the fishery for the aggregated LCS and hammerhead shark management groups for the eastern Gulf of Mexico sub-region would open on January 1 with a quota of 85.5 mt dw (188,593 pounds (lb) dw) and 13.3 mt dw (29,421 lb dw), respectively, blacktip sharks in the eastern and western Gulf of Mexico sub-regions would open on January 1 with a quota of 37.7 mt dw (83,158 lb dw) and 347.2 mt dw (765,392 lb dw), respectively, and a commercial retention limit of 45 LCS other than sandbar sharks per trip for directed shark

limited access permit holders. NMFS explained that if it appeared that the quota was being harvested too slowly, NMFS would consider increasing the retention limit, consistent with the applicable regulatory requirements. Based on dealer reports through July 9, 2021, approximately 45 percent of the 85.5 mt dw quota for aggregated LCS and approximately 42 percent of the 13.4 mt dw quota for the hammerhead shark management group have been harvested in the eastern Gulf of Mexico sub-region. In addition, based on dealer reports through July 9, 2021, approximately 23 percent of the 37.7 mt dw quota for the eastern Gulf of Mexico sub-region blacktip and approximately 61 percent of the 347.2 mt dw quota for the western Gulf of Mexico sub-region blacktip have been harvested. Based on the current dealer reports, the average daily catch rates of landings in the eastern Gulf of Mexico sub-region for aggregated LCS, hammerhead, and blacktip, and in the western Gulf of Mexico sub-region for blacktip are low (§ 635.24(a)(8)(ii)). A higher retention limit should increase the likelihood of full utilization of available quota in the Atlantic region, while also allowing the fishery to operate for the remainder of the year.

Accordingly, as of [*insert date of filing for public inspection at the Office of the Federal Register*], NMFS is increasing the retention limit for directed shark limited access permit holders from 45 to 55 LCS other than sandbar sharks per vessel per trip in the Gulf of Mexico region. In the eastern Gulf of Mexico sub-region, this applies to any shark in the aggregated LCS, hammerhead, or blacktip management groups. In the western Gulf of Mexico sub-region, because aggregated LCS and hammerhead management groups are closed, this increase only applies to the blacktip management group. This retention limit adjustment does not apply to directed shark limited access permit holders if the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and “no sale” provisions apply (§ 635.22(a) and (c)); or if the

vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard, in which case the restrictions noted on the shark research permit apply.

All other retention limits in the Gulf of Mexico region remain unchanged. This retention limit will remain at 55 LCS other than sandbar sharks per vessel per trip for the remainder of 2021, or until NMFS announces another adjustment to the retention limit or a fishery closure via a notification in the **Federal Register**, if warranted.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 635, which was issued pursuant to section 304(c), and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

Based on recent data, NMFS has determined that landings have been low (45 percent of the 85.5-mt dw quota for aggregated LCS and 42 percent of the 13.4-mt dw quota for the hammerhead shark management group in the eastern Gulf of Mexico sub-region; 23 percent of the 37.7-mt dw quota for the eastern Gulf of Mexico sub-region blacktip and 61-percent of the 347.2 mt dw quota for the western Gulf of Mexico sub-region blacktip). Delaying this action for prior notice and public comment would unnecessarily limit opportunities to harvest available aggregated LCS management group, hammerhead shark management group, and blacktip shark quotas, which may have negative social and economic impacts for U.S. fishermen. This action does not raise conservation and management concerns. Adjusting retention limits does not affect the overall aggregated LCS management group, hammerhead shark management group, and blacktip shark quotas, and available data show the adjustment would have a minimal risk

of exceeding the quotas set for the aggregated LCS and hammerhead shark management groups in the eastern Gulf of Mexico sub-region, and blacktip sharks in the eastern and western Gulf of Mexico sub-regions in the December 1, 2020 final rule (85 FR 77007). NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the quota and retention limit adjustment criteria. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 20, 2021.

Kelly Denit,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. 2021-18289 Filed: 8/24/2021 8:45 am; Publication Date: 8/25/2021]